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SIPDIS

COMMERCE FOR ADINA ADLER  
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USPTO FOR TIMOTHY BROWNING  
STATE PASS TO USTR

E.O. 12958: N/A

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SUBJECT: BDG PASSES COPYRIGHT LAW, LONG ROAD AHEAD

1. Summary: The BDG passed the Copyright Act of 2005 to comply with WIPO standards. Although an important milestone, implementing regulations are not yet drafted. The 2005 Patent and Design Act is in the clearance process in the Law Ministry and the Trademark Law is expected to be sent for Cabinet review soon. Enforcement of IPR laws remains problematic. Post is planning a 2-day IPR event in July to address training and awareness issues. End Summary.

2. The Copyright Act of 2005 passed easily in Parliament on May 15. Drafted to comply with WIPO requirements, it replaces the non-compliant Copyright Act of 2000. The BDG must still draft implementing regulations, a process expected to take two to three years.

3. The draft Trademark Law has been cleared by the Law Commission and is ready for Cabinet review, after which it will be sent to Parliament. The Deputy Registrar of the trademark office expects Parliament to pass the law by September.

4. The draft Patent Act is currently under review by the Law Commission. The Law Ministry and then the Cabinet must clear the draft before it is sent to Parliament. The PDTO Registrar predicts passage by November.

5. Violations of copyright, patents, and trademarks are commonplace, yet enforcement of IPR laws generally remains problematic. BDG officials lack technical knowledge and training in IPR protection and enforcement techniques.

6. Officials in the Copyright Office, within the Ministry of Cultural Affairs, tell us that they are ill equipped to handle the registration and enforcement process. They are severely understaffed: 14 low level clerks support the lone substantive official. The BDG approved only four of 33 requested positions, and even these remain unfilled. Lack of office space, equipment, officers, and training remain key problems. WIPO provided computers and necessary equipment for the Copyright Office, but according to the Registrar, employees were not trained to use the equipment.

7. The BDG merged the Patent Office with the Design and Trademark Office in 2004 to streamline the process of registration and enforcement. The new Patent, Design, and Trademark Office (PDTO) is part of the Ministry of Industries. Senior officials in the Ministry and in the PDTO admit that they lack the necessary training and knowledge to handle patent and trademark protection. The Minister of Information, Motiur Rahman Nizami, said in an IPR conference in early May that he learned more about IPR in the two hour conference than he had in his three years in office. Working level officials also admit they lack technical and substantive skills.

8. The PDTO has 5 registrars and 81 employees. The BDG has allocated another 31 positions to this office, which it has yet to fill. WIPO and the EU provided computers and automation equipment for the PDTO; however, the staff does not have adequate training to operate the equipment. According to the Registrar, 90 percent of patent registrations are from foreign companies and they do not receive many complaints of violations.

9. The trademark office within the PDTO also uses WIPO equipment and computers, but the Registrar stressed the need for training. Complaints regarding trademark violations are frequent. Post has received complaints from several American companies, including Coca Cola, Walmart, Kelvinator, A&E (plastic products manufacturers) and Microsoft. Recently, Post uncovered a local supermarket, named PriceClub, illegally using the Costco, Sam's Club, PriceClub and Walmart logos in its advertising and in the store display. We have notified all American companies involved about this incident. Local enforcement mechanisms are weak. Police raids and arrests occur occasionally, but violators are released with minor penalties.

10. To address awareness and training needs, Post is organizing, with the USPTO, a 2-day IPR event in Bangladesh

in July. PTO trainers will hold seminars with specific groups on separate issues like software copyright protection, patent and trademark protection, enforcement mechanisms, and counterfeiting and brand protection. The target groups will include academics, IPR lawyers, government procurement officials, manufacturers, ICT groups, chambers of commerce, and enforcement officials from relevant agencies. The event will include a press conference with local celebrities to bring public awareness to these issues. Post expects this event to be the first step in raising awareness and providing further training and capacity building in IPR enforcement in Bangladesh.

THOMAS